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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(San Joaquin)**

CHARTER SCHOOL CAPITAL, INC.,

Plaintiff and Appellant,

v.

SAN JOAQUIN COUNTY OFFICE OF
EDUCATION,

Defendant and Respondent.

C075716

(Super. Ct. No.
39-2012-00287423-CU-BC-STK)

This case involves a dispute related to the funding of a new charter school in Stockton. “The Legislature is charged with providing a public education system for the citizens of the State of California. [Citations.] It has long done that through the establishment of public school districts [citation] and, more recently, through charter schools as well [citation].” (*Today’s Fresh Start, Inc. v. Los Angeles County Office of*

Education (2013) 57 Cal.4th 197, 205 (*Today's Fresh Start*.) Charter schools are “public schools funded with public money but run by private individuals or entities rather than traditional public school districts.” (*Ibid.*)

In 2012, plaintiff Charter School Capital, Inc. (CSC), was a corporation in the business of contracting with new charter schools to provide them funding for startup and operating expenses incurred prior to their receipt of state public education funds. In exchange, the charter schools would agree to sell CSC their first state-funded payment, known as the advance apportionment payment. In late August 2012, CSC entered into such a contract with Velocity Charter Schools, Inc. (Velocity), and a new charter school in Stockton named Velocity International Science and Technology Academy (VISTA). Less than a month after CSC paid Velocity \$543,192, VISTA closed due to low enrollment. Shortly thereafter, defendant San Joaquin County Office of Education (SJCOE) returned VISTA’s advance apportionment payment to the California Department of Education (CDE). This lawsuit followed.

The operative complaint alleges one cause of action against SJCOE—failure to perform mandatory duty in violation of Government Code section 815.6.¹ CSC’s theory of liability is that SJCOE had a mandatory duty under the Education Code to immediately transfer VISTA’s advance apportionment payment to it or VISTA.

After CSC amended its complaint four times, the trial court sustained SJCOE’s demurrer to the fourth amended complaint without leave to amend. CSC now appeals

¹ The operative complaint also alleges a breach of contract cause of action against Velocity and VISTA and a negligence cause of action against Velocity, VISTA, and their officers and directors.

from the judgment of dismissal, entered in November 2013, after the court’s order.² We affirm.

BACKGROUND

Charter Schools

In 1992, with the enactment of the Charter Schools Act of 1992 (Ed. Code, § 47600 et seq.) (Charter Schools Act),³ “California became one of the first states in the country to authorize charter schools—public schools funded with public money but run by private individuals or entities rather than traditional public school districts. The Charter Schools Act . . . authorized various public bodies to approve charters, supervise charter school operations, and revoke charters in the event particular standards and conditions were not met.” (*Today’s Fresh Start*, *supra*, 57 Cal.4th at p. 205.) “The Legislature intended its authorization of charter schools to improve public education by promoting innovation, choice, accountability, and competition.” (*Id.* at pp. 205-206.) “While charter schools have considerable freedom in their academic approach, they must meet statewide educational standards and use appropriately credentialed teachers.” (*Wells v. One2One Learning Foundation* (2006) 39 Cal.4th 1164, 1180 (*Wells*).) A charter school must also comply with the terms of its charter, the Charter Schools Act, and other specified laws, but it is otherwise exempt from laws governing school districts. (§ 47610.)

A typical county in California “has a county board of education, a county superintendent of education, and a county office of education. [Citations.] The county

² CSC filed its notice of appeal in January 2014. Briefing was completed in September 2014. The panel as presently constituted was assigned this matter in July 2018.

³ Undesignated statutory references are to the Education Code.

superintendent is the head of the county office; the county board is its governing board.” (*Today’s Fresh Start, supra*, 57 Cal.4th at p. 207, fn. 4.)

“Charter schools are initiated by submitting a petition to the chartering authority, generally the governing board of a public school district but occasionally a county board or the State Board of Education.” (*Today’s Fresh Start, supra*, 57 Cal.4th at p. 206.) The petition may be submitted to the governing board of the school district for review if it is signed by a number of parents or legal guardians equal to at least half of the estimated enrollment, or signed by a number of teachers equal to at least half the number of teachers anticipated to be employed at the school. (§ 47605, subd. (a)(1)(A) & (B).)

“Once approved, charter schools are operated independently, but are subject to public oversight.” (*Today’s Fresh Start, supra*, 57 Cal.4th at p. 206.) “[T]he chartering body . . . is obligated to oversee each charter school under its authority.” (*San Jose Unified School Dist. v. Santa Clara County Office of Education* (2017) 7 Cal.App.5th 967, 972-973.) “Chartering authorities must monitor schools’ fiscal condition and academic performance and are authorized to investigate whenever grounds for concern arise. [Citations.] In turn, schools must respond promptly to any reasonable inquiries from public officials charged with oversight.” (*Today’s Fresh Start, supra*, 57 Cal.4th at p. 206.)

“Though independently operated, charter schools fiscally are part of the public school system; they are eligible equally with other public schools for a share of state and local education funding. [Citations.] This hybrid nature results in a complicated relationship with other public schools. ‘Obviously charter schools are not in opposition to the public school system. On the contrary, they are a part of that system.’ [Citation.] Nevertheless, ‘charter schools compete with traditional public schools for students, and they receive funding based on the number of students they recruit and retain at the

expense of the traditional system.’ ” (*Today’s Fresh Start, supra*, 57 Cal.4th at pp. 206-207.)

The Education Code provides that the state Controller during each fiscal year shall transfer from the General Fund of the state to the State School Fund a specified amount per student. (§ 14002, subd. (a).) The state Superintendent of Public Instruction is required to certify to the Controller the amounts estimated to be apportioned to each school district during the ensuing fiscal year. (§ 41330.) A charter school is considered a “ ‘school district’ ” for purposes of receiving state public education funds. (§ 47612, subd. (c).)

Charter schools are entitled “to full and fair funding.” (§ 47615, subd. (a)(3).) Each charter school must be provided with operational funding that is equal to the total funding that would be available to a similar school district serving a similar student population. (§ 47630, subd. (a).) “Like traditional public schools, charter schools are funded by the state based on ADA [i.e., average daily attendance] records.” (*Wells, supra*, 39 Cal.4th at p. 1180.)

“[A] charter school in its first year of operation shall be eligible to receive funding for the advance apportionment [of state aid] based on an estimate of average daily attendance for the current fiscal year, as approved by the local educational agency that granted its charter and the county office of education in which the charter-granting agency is located . . . Not later than five business days following the end of the first 20 schooldays, a charter school receiving funding pursuant to this section shall report to the [Department of Education] its actual average daily attendance for that first month, and the Superintendent [of Public Instruction] shall adjust immediately, but not later than 45 days, the amount of its advance apportionment accordingly.” (§ 47652, subd. (a).)

“[A]lthough [state public education] funds received by school districts are to be paid into the county treasury for the credit of the district [citations], . . . ‘ “[s]chool

moneys *belong to the state* and the apportionment of funds to a school district does not give the district a proprietary interest in the funds. . . .” ’ ’ ” (*Kirchmann v. Lake Elsinore Unified School Dist.* (2000) 83 Cal.App.4th 1098, 1111.) “If a charter school ceases to exist, its [students] are reabsorbed into the district’s mainstream public schools, and the [average daily attendance] revenues previously allotted to the charter school for those [students] revert to the district.” (*Wells, supra*, 39 Cal.4th at p. 1202.)

Operative Pleading

The following facts are taken from the operative complaint (fourth amended complaint) and the exhibits attached thereto.

In 2012, CSC was a corporation in the business of providing funding to new charter schools in advance of their receipt of the initial aid payment made by the state (i.e., CDE). CSC would enter into contracts with charter schools to purchase their state public education funds.

VISTA was a charter school established in 2012. It was located in Stockton and operated by Velocity, a California nonprofit public benefit corporation. VISTA was in the New Jerusalem School District, which was the chartering authority that approved VISTA’s charter school petition.

SJCOE is a local government agency that receives and distributes state public education funding for charter schools in San Joaquin County, including Stockton. According to CSC, SJCOE’s role in administering public education funds for charter schools is in the nature of a trustee or fiduciary; it acts as a “pass through entity that transfers funds directly from CDE to the charter schools.”

On August 29, 2012, VISTA, Velocity, and CSC entered into a written contract—Receivable Purchase Agreement (RPA)—and executed a Bill of Sale. The RPA provided that Velocity would sell and CSC would purchase certain attendance and grant

receivables—state public education funds used to partially fund VISTA’s operations (collectively, Receivables or advance apportionment payment).

Under the terms of the RPA and Bill of Sale, Velocity agreed to “sell, transfer, set over, and otherwise convey to [CSC]” all its “right, title and interest in, to and under the Receivables . . . all monies due or to become due and all amounts received with respect thereto, and all proceeds thereof.”⁴ The parties agreed that the aggregate value of the Receivables was approximately \$700,055. This figure was calculated based on the Pupil Estimates for New or Significantly Expanding Charters (PENSEC) form submitted to the CDE by Velocity and VISTA in July 2012. In that form, Velocity and VISTA represented that VISTA had a confirmed enrollment of 360 students and an estimated total enrollment of 400 students for the 2012-2013 school year. The superintendent of schools for SJCOE certified that the enrollment estimates in the PENSEC form were true and correct and represented reasonable estimates of VISTA’s anticipated enrollment.

On the same date as the RPA and Bill of Sale were executed, CSC paid Velocity \$543,192.⁵ In addition, Velocity e-mailed SJCOE a document, titled Notice of Assignment of Amounts Payable (Notice of Assignment). The Notice of Assignment

⁴ CSC alleges that, under the terms of the RPA, Velocity and VISTA assigned to CSC their interest in any causes of action related to the Receivables, including any causes of action related to the collection of the Receivables. According to CSC, the assignment was confirmed by a letter dated June 10, 2013, written less than a week after the trial court issued a tentative ruling sustaining SJCOE’s demurrer to the third amended complaint, which alleged the same cause of action against SJCOE as the fourth amended complaint. The letter reflects that counsel for CSC sought and received confirmation from Velocity and VISTA that any causes of action brought against SJCOE regarding entitlement to the Receivables “belong” to CSC.

⁵ The Bill of Sale provided that the initial purchase (face value) price was \$595,100, with a maximum deferred purchase price of \$104,955. It further provided that the upfront purchase price was \$563,571, with net proceeds to Velocity in the amount of \$543,192, calculated as follows: \$563,571 minus a program fee of \$20,829 and an application fee of \$450.

advised SJCOE that Velocity had “sold and assigned to [CSC] the receivables payable by the State of California, San Joaquin County, the [SJCOE], the San Joaquin County Superintendent of Schools, the New Jerusalem Elementary School District, and the federal government of the United States in respect of [VISTA] generally including: the initial advance payment in the month of OCTOBER 2012, (i) the State aid portion of [VISTA’s] total general purpose entitlement (sometimes referred to by the [CDE] as general purpose block grant funding) and (ii) the categorical block grant (including economic impact aid); as such payments may have been and/or may in the future be deferred, delayed, accelerated or otherwise rescheduled from time to time, in whole or in part; and all proceeds thereof.” The Notice of Assignment directed SJCOE to “deliver all amounts with respect to such receivables” to a specified account, and indicated that this “instruction is irrevocable and cannot be altered without the written consent of [CSC].”

On September 7, 2012, the CDE issued an Apportionment Summary for Newly Operational Charter Schools Fiscal Year 2012-2013, which indicated that VISTA was entitled to an advance apportionment payment in the amount of \$780,174. When the school year commenced on September 10, 2012, only 70 students were enrolled at VISTA. Velocity and VISTA, however, did not immediately notify CSC or the CDE of VISTA’s lower than anticipated enrollment.

On or about September 15, 2012, CDE distributed VISTA’s advance apportionment payment to SJCOE. According to CSC, SJCOE improperly held these funds, rather than immediately transferring them to it (as instructed in the Notice of Assignment) or VISTA, in violation of SJCOE’s mandatory duty under sections 47651, 47652, and 14041.

In a letter dated September 19, 2012, Velocity advised the “ ‘parents/guardians/ students of VISTA’ ” that, effective September 24, 2012, VISTA would “cease to operate due to lower than expected initial enrollment.” On September 25, 2012, CSC contacted

SJCOE and demanded delivery of VISTA's advance apportionment payment. SJCOE did not comply with CSC's demand. Instead, it returned VISTA's advance apportionment payment to the CDE.

The fourth amended complaint alleges one cause of action against SJCOE—failure to perform mandatory duty in violation of Government Code section 815.6.⁶ In support of its claim, CSC asserts that SJCOE had a mandatory duty to immediately transfer VISTA's advance apportionment payment to it or VISTA pursuant to sections 47651, 47652, and 14041. CSC further asserts that SJCOE had a mandatory duty to use reasonable care in reviewing and signing off on the enrollment information contained in the PENSEC form. According to CSC, SJCOE violated its mandatory duties by approving the PENSEC form and by mishandling VISTA's advance apportionment payment. CSC claims that it has been damaged in the amount of \$700,055 as a direct result of SJCOE's failure to perform its mandatory duties. However, because it has received \$258,073.65 from Velocity and VISTA, CSC seeks only \$441,981.35 in damages.

SJCOE's Demurrer

SJCOE demurred to the fourth amended complaint on the following grounds: (1) CSC lacks standing to bring this action; (2) CSC failed to allege a viable cause of action because it did not identify any statute imposing a mandatory duty on SJCOE to transfer VISTA's advance apportionment payment to it, and because the cited statutory provisions were not designed to protect against the kind of injury CSC allegedly suffered; (3) CSC failed to allege facts demonstrating that any purported breach of a mandatory

⁶ This cause of action was alleged against SJCOE for the first time in the third amended complaint. On June 11, 2013, the trial court issued an order sustaining SJCOE's demurrer to the third amended complaint with leave to amend, ruling that CSC had failed to allege "the statutory authority for the alleged mandatory duty to [CSC] from SJCOE."

duty on the part of SJCOE proximately caused CSC's alleged injury; and (4) SJCOE is immune from a cause of action predicated on any negligent investigation regarding VISTA's representations in the PENSEC form or any misrepresentations attributed to SJCOE in that form.

CSC filed a written opposition, arguing that it had sufficiently alleged facts demonstrating that it has standing and a viable cause of action against SJCOE. CSC argued that it has standing because Velocity and VISTA lawfully transferred all their rights with respect to the advance apportionment payment to it, including their right to pursue this action. CSC further argued that it had alleged sufficient facts to support a finding that SJCOE violated a mandatory duty under the Education Code by failing to immediately transfer the advance apportionment payment to it or VISTA, that the cited statutory provisions were designed to protect against the kind of injury it suffered, and that SJCOE's breach of its mandatory duty was the proximate cause of its injury. CSC did not address SJCOE's immunity arguments.

Trial Court Ruling

Prior to the hearing on SJCOE's demurrer, the trial court issued a tentative ruling that CSC had not stated a viable cause of action because "[t]here is no mandatory duty from [SJCOE] to [CSC] contained within [Education Code] sections 47651, 47652 or 14041" The court reasoned, "[SJCOE] may have had duties to Velocity/Vista, which could possibly be enforced by Velocity/Vista, but not by [CSC]. The plain language of the [Education Code] sections . . . do not show any kind of mandatory duty owing from [SJCOE] to [CSC]. . . . Basically, [CSC] is claiming that [SJCOE] should have turned over approximately \$800,000 in funds to [CSC], who is in the business of making agreements with and loaning money to charter schools, when [SJCOE] was made aware that there was no longer any basis for Vista/Velocity to receive the funds. These are public monies to be used for a public purpose. The agreement that [CSC] made with

Vista/Velocity was at its own peril and it does not appear that the Legislature intended that the state be a guarantor of such agreements or that the state would provide any such kind of security. If the Legislature so intended, it could have easily stated so in the statutory scheme.”

In addition, the trial court stated, “[SJCOE] has immunity against the bases alleged to support violations of any common law duties. [CSC] has not disputed this argument. Therefore, as a matter of law, [SJCOE] would be immune on any such allegations of abuse of discretion or misrepresentation.”

Following a hearing,⁷ the trial court issued a written order sustaining SJCOE’s demurrer without leave to amend. In so ruling, the court rejected CSC’s contention that the RPA and Bill of Sale created an assignment of Velocity/VISTA’s right to sue SJCOE for its alleged failure to perform a mandatory duty in violation of Government Code section 815.6. The court stated that the tentative ruling “shall remain . . . the final ruling.”

After the judgment of dismissal was entered, CSC filed a timely notice of appeal.

DISCUSSION

1.0 Standard of Review

“A demurrer tests the legal sufficiency of factual allegations in a complaint.” (*Lee Newman, M.D., Inc. v. Wells Fargo Bank* (2001) 87 Cal.App.4th 73, 78.) In an appeal from a judgment of dismissal entered after an order sustaining a demurrer, we examine the complaint de novo to determine whether it alleges facts sufficient to state a cause of action under any legal theory. (*Committee For Green Foothills v. Santa Clara County Bd. of Supervisors* (2010) 48 Cal.4th 32, 42.) We assume the truth of all material facts

⁷ The appellate record does not contain a transcript of the hearing.

properly pleaded and the facts appearing in exhibits attached to the complaint. (*Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 6; *Dodd v. Citizens Bank of Costa Mesa* (1990) 222 Cal.App.3d 1624, 1627.) “We do not, however, assume the truth of contentions, deductions, or conclusions of fact or law.” (*Moore v. Regents of University of California* (1990) 51 Cal.3d 120, 125.) “We may affirm a trial court judgment on any basis presented by the record whether or not relied upon by the trial court.” (*State of California ex rel. Metz v. CCC Information Services, Inc.* (2007) 149 Cal.App.4th 402, 412.)

When a demurrer is sustained without leave to amend, as here, we decide whether there is a reasonable possibility that the complaint could be amended to cure the defect. If an amendment could cure the defect, the trial court has abused its discretion and we reverse; if not, no abuse of discretion has occurred. (*Schifando v. City of Los Angeles* (2003) 31 Cal.4th 1074, 1081.) The plaintiff has the burden of showing that the complaint could be amended to cure the defect. (*Ibid.*)

2.0 Analysis

Under the Government Claims Act (Gov. Code, § 810 et seq.), a public entity is not liable for injury arising from an act or omission except as provided by statute. (Gov. Code, § 815, subd. (a) [“Except as otherwise provided by statute: [¶] (a) A public entity is not liable for an injury, whether such injury arises out of an act or omission of the public entity or a public employee or any other person.”]; *Miklosy v. Regents of University of California* (2008) 44 Cal.4th 876, 899.) The “intent of the act is not to expand the rights of plaintiffs in suits against governmental entities, but to confine potential governmental liability to rigidly delineated circumstances” (*Williams v. Horvath* (1976) 16 Cal.3d 834, 838; see *Ellerbee v. County of Los Angeles* (2010) 187 Cal.App.4th 1206, 1214.)

CSC’s theory of liability is that SJCOE had a mandatory duty to comply with certain provisions of the Education Code (i.e., §§ 47651, 47652 & 14041), and that SJCOE’s failure to comply with these provisions constituted an actionable tort. In support of its theory, CSC relies on Government Code section 815.6, which provides a private right of action against a public entity for breach of a mandatory duty.⁸ According to CSC, SJCOE was statutorily obligated to immediately transfer VISTA’s advance apportionment payment to it or VISTA.

Section 815.6 has three discrete requirements that must be met before governmental liability may be imposed: (1) an enactment that imposes a mandatory duty on the public entity; (2) the enactment is designed to protect against the particular kind of injury allegedly suffered by the plaintiff; and (3) the breach of the mandatory duty was the proximate cause of the plaintiff’s alleged injury. (*Guzman v. County of Monterey* (2009) 46 Cal.4th 887, 898 (*Guzman*); *Haggis v. City of Los Angeles* (2000) 22 Cal.4th 490, 498-499 (*Haggis*).) “A private cause of action lies against a public entity only if the underlying enactment sets forth the elements of liability set out in section 815.6.” (*Guzman, supra*, at p. 897; see Gov. Code, § 810.6 [“ ‘[e]nactment’ ” defined as “constitutional provision, statute, charter provision, ordinance or regulation”].)

“[T]he use of the word ‘shall’ in the subject statutes is not conclusive. The controlling question is whether the enactment at issue was intended to impose an obligatory duty to take specified official action to prevent particular foreseeable injuries, thereby providing an appropriate basis for civil liability. [Citation.] If injury of the kind sustained by appellants was not one of the consequences which the Legislature sought to

⁸ Government Code section 815.6 provides: “Where a public entity is under a mandatory duty imposed by an enactment that is designed to protect against the risk of a particular kind of injury, the public entity is liable for an injury of that kind proximately caused by its failure to discharge the duty unless the public entity establishes that it exercised reasonable diligence to discharge the duty.”

prevent through imposition of the alleged mandatory duty, liability does not obtain under Government Code section 815.6.” (*Keech v. Berkeley Unified School Dist.* (1984) 162 Cal.App.3d 464, 470.) The inquiry with regard to the plaintiff’s injury “goes to the legislative *purpose* of imposing the duty.” (*Guzman, supra*, 46 Cal.4th at p. 898.)

“While the dividing line between a discretionary and mandatory duty is not always definitive, the California Supreme Court has articulated ‘rigid requirements for imposition of governmental liability under Government Code section 815.6’ [Citation.] ‘ “An enactment creates a mandatory duty if it requires a public agency to take a particular action. [Citation.] An enactment does not create a mandatory duty if it merely recites legislative goals and policies that must be implemented through a public agency’s exercise of discretion.” [Citation.]’ [Citation.] ‘Courts have construed this first prong rather strictly, finding a mandatory duty only if the enactment “affirmatively imposes the duty and provides implementing guidelines.” ’ ” (*San Mateo Union High School Dist. v. County of San Mateo* (2013) 213 Cal.App.4th 418, 429; see *Haggis, supra*, 22 Cal.4th at p. 498 [“the enactment at issue [must] be *obligatory*, rather than merely discretionary or permissive, in its directions to the public entity; it must *require*, rather than merely authorize or permit, that a particular action be taken or not taken”].)

“Whether an enactment creates a mandatory duty is a question of law” (*Haggis, supra*, 22 Cal.4th at p. 499.) We examine the “language, function and apparent purpose” of each cited enactment “to determine if any or each creates a mandatory duty designed to protect against” the injury allegedly suffered by plaintiff. (*Id.* at p. 500.) In deciding whether a statute imposes a mandatory duty, we look to legislative intent, which is determined primarily, although not exclusively, from the statutory text. (*Nunn v. State of California* (1984) 35 Cal.3d 616, 624.) In construing the statute, we must give it “a reasonable construction that conforms to the apparent purpose and intention of the law makers [citations], and the various parts of the statutory enactment must be harmonized

by considering the particular clause in the context of the whole statute.” (*Id.* at pp. 624-625.)

As an initial matter, the court questions CSC’s contention that a public school may validly assign state public education funds to a private entity. However, even assuming for purposes of argument that Velocity and VISTA validly assigned to CSC their right to the advance apportionment payment and their right to file suit to obtain such payment, we conclude that the trial court did not err in sustaining the demurrer. Having reviewed the text of the statutory provisions cited in the fourth amended complaint, we conclude that none of them impose a mandatory duty on SJCOE designed to protect against the kind of injury allegedly suffered by CSC.⁹ Section 47651 specifies the ways in which a charter school may receive the state aid portion of its public education funding. Section 47652 provides that a new charter school’s advance apportionment payment is based on an estimate of the school’s average daily attendance. Section 14041 states that the state Controller shall draw warrants from the State School Fund in favor of the county treasurer of each county in each month of each year in the manner specified, so as to provide in each warrant a portion of the total amount of state public education funding for the school districts and charter schools under the jurisdiction of the superintendent of schools of that county.¹⁰ There is nothing in these statutory provisions that can be

⁹ We note that sections 47651 and 14041 have been amended since September 2012. The amendments have no impact on the resolution of this appeal.

¹⁰ Section 47651 provides that a charter school may receive the state aid portion of its funding either directly from the state or through the local educational agency that granted its charter. (§ 47651, subd. (a).) Without citation to the record, CSC’s opening brief claims that VISTA elected to receive the state aid portion of its funding directly. The fourth amended complaint, however, does not contain such an allegation. In its reply brief, CSC contends that a document from CDE attached to the complaint—titled Apportionment Summary for Newly Operational Charter Schools Fiscal Year 2012-13—shows that VISTA elected to receive its funds directly because an entry related to VISTA includes the letter “D” in the column titled “Funding Type.” When a charter school

reasonably construed as affirmatively imposing a mandatory duty on SJCOE to immediately transfer the public education funds at issue in this case to CSC or VISTA. Moreover, we see nothing in the plain language of the statutory provisions or the statutory scheme of the Charter Schools Act that would support the conclusion that CSC's injury is one of the consequences the Legislature sought to prevent through imposition of the alleged mandatory duty. Accordingly, CSC's cause of action fails as a matter of law. In view of our conclusion, we need not and do not address SJCOE's other arguments.

We are unpersuaded by CSC's contention, raised for the first time on appeal, that the fourth amended complaint alleges facts sufficient to state causes of action for mandamus, implied contract, conversion, violation of the takings and due process clauses of the federal and state Constitutions, and breach of fiduciary duty. CSC has failed to provide us authority and legal analysis showing that it has stated a viable cause of action predicated on any of these theories. Thus, we find that the trial court did not abuse its discretion in sustaining SJCOE's demurrer without leave to amend.

elects to receive its state funding directly (as we will assume VISTA did), the warrant drawn on the State School Fund by the Controller "shall be drawn in favor of the county superintendent of schools of the county in which the local educational agency that approved the charter . . . is located, for deposit to the appropriate funds or accounts of the charter school in the county treasury. The county superintendent of schools is authorized to establish appropriate funds or accounts in the county treasury for each charter school." (§ 47651, subd. (a)(1).)

DISPOSITION

The judgment of dismissal is affirmed. SJCOE is awarded its costs on appeal.
(Cal. Rules of Court, rule 8.278(a)(1), (2).)

BUTZ, J.

We concur:

BLEASE, Acting P. J.

HULL, J.